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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 FINLEY B. FULTZ,

12 Petitioner,

13 v.

14 STATE OF CALIFORNIA,

15 Respondent.
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No. 2:21-cv-1254 KJM CKD P

ORDER

17 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas
18 corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as
19 provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On September 15, 2022, the magistrate judge filed findings and recommendations, which
21 were served on petitioner and which contained notice to petitioner that any objections to the
22 findings and recommendations were to be filed within fourteen days. Petitioner has filed
23 objections to the findings and recommendations.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
25 court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the
26 findings and recommendations to be supported by the record and by the proper analysis. As the
27 Magistrate Judge correctly explained, this court must refrain from adjudicating petitioner's claims
28 because criminal proceedings are ongoing in state court, and adjudicating his petition would

1 interfere with that prosecution in a way the Supreme Court forbids. *See* F&Rs at 3–4 (citing
2 *Younger v. Harris*, 401 U.S. 37, 45–46 (1971)). The dismissal order at the basis of petitioner’s
3 challenge has also now been vacated. *See* F&Rs at 4 (citing Suppl. Info. at 11, ECF No. 8); *see*
4 *also People v. Fultz*, 69 Cal. App. 5th 395 (2021).

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed September 15, 2022, are adopted in full;
- 7 2. Petitioner’s application for a writ of habeas corpus is summarily dismissed without
8 prejudice based on the *Younger* abstention doctrine;
- 9 3. This case is closed; and
- 10 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
11 § 2253.

12 DATED: December 5, 2022.

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15 CHIEF UNITED STATES DISTRICT JUDGE
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